

CLAIM OF NOBUO MATSUI

[No. 146-35-2853. Decided August 20, 1951]

FINDINGS OF FACT

* * * Claimant was born in Sacramento, California, of Japanese parents. * * * On March 28, 1942, * * * in anticipation of an order of exclusion, he voluntarily departed from Los Angeles and migrated beyond the area of the Western Defense Command to Fort Lupton, Colorado. At the time of his departure, claimant owned a 12-tube RCA radio with shortwave band * * *. Because his automobile was fully packed with necessities and there was no room for * * * other items, claimant left the radio * * * in the care of a Mexican friend * * *. Upon his return to California following the lifting of the Exclusion Orders, claimant sought to regain his property but discovered that * * * his Mexican friend, whose present whereabouts are unknown, denied ever receiving the radio.

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REASONS FOR DECISION

* * * Claimant's loss through the disappearance of his radio is * * * compensable, *Akiko Yagi, ante*, p. 11. * * * It is true, of course, that under General DeWitt's Public Proclamation No. 3 of March 24, 1942 (7 F. R. 2543), no person of Japanese ancestry was permitted to have a short-wave radio in his possession within the Western Defense Command Area after March 31, 1942. Cf. *Haruto Tomita, ante*, p. 172. Since claimant's possession of the radio on March 28, 1942, was lawful, however, and General DeWitt's Proclamation was without effect in Colorado, it is clear that claimant could properly have taken the radio with him. That he did not do so was due not to the re-

quirements of the proclamation, but to lack of available transportation facilities. Plainly, then, claimant's disposition of the radio represented a proximate consequence of his evacuation and the loss ensuing therefrom is compensable.